

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 4184 OF 2021

Ajit Dakua

..... *Petitioner*
Mr. P.K.Nanda, Advocate

-versus-

State of Odisha

..... *Opposite Party*
Mr.K.K.Gaya, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
13.05.2022

Order No.
05.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. The Petitioner is an accused in connection with G.R. Case No.37 of 2021 arising out of Motu P.S. Case No. 21 of 2021 on the file of learned Sessions Judge-cum-Special Judge, Malkanagiri, registered for the alleged commission of offence under Sections 20(b)(ii) (C)/25-A/27(a) of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s 439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Malkanagiri by order dated 9.03.2021, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that from the manner in which seizure has been affected, conscious exclusive possession cannot be attributed to the petitioner. It is further submitted that the petitioner has no criminal proclivity and relying

on the judgment of the Apex Court in the case of **Hussainara Khatoon & Others Vrs. State of Bihar**, reported 1979 AIR 1369, seeks release.

6. Learned counsel for the State opposes the prayer for bail inter alia, on the ground that there are materials to connect the petitioner with the contraband and in view of the bar contained under Section 37 of the NDPS Act, the plea of innocence as advanced cannot be considered by the Court at this stage.

7. Taking into account the period of custody and admitted non-commencement of trial, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter so as to ensure his attendance on each date of trial.

8. While enlarging the petitioner on bail, learned court in seisin over the matter shall verify the submission that the petitioner has no criminal antecedent. If it comes to the fore that the petitioner has criminal proclivity, the present order granting bail will stand recalled automatically without any further reference to this Court.

9. Accordingly, the BLAPL stands disposed of.

10. Issue urgent certified copy of this order as per Rules.

(*V.Narasingh*)
Judge

Dhal